

THE UNITED STATES DISTRICT COURT WESTERN
DISTRICT OF WASHINGTON AT SEATTLE

WALLACE G. DOWDEN,

Plaintiff,

v.

CAPTAINS PRIDE, Official No. 951152, its
Engines, Machinery, Appurtenances, etc.,
In Rem;

and

DANNY L. SIMPSON, SR. AND MICHAEL A.
SIMPSON, *In Personam*,

Defendants.

IN ADMIRALTY

Case No.: C16-1289RSM

ORDER APPOINTING
SUBSTITUTE CUSTODIAN, AND
FOR BOARDING AND
INSPECTION

Plaintiff, Wallace G. Dowden, by and through his attorney, Holmes Weddle, &
Barcott, PC, having appeared, now makes the following recitals:

1. On August 16, 2016, a complaint herein was filed praying that the Court
decree payment due by the in personam Defendants and the vessel, CAPTAINS PRIDE,
Official No. 951152, its engines, machinery, and appurtenances, etc. ("Vessel"), the sum
of \$45,109,04.00 in principal and interest subject to adjustment, through August 12,
2016, and daily interest thereafter in the amount of \$6.40 until the time of judgment and
thereafter until paid; reasonable attorneys' fees; and the costs of this action including

ORDER SUBSTITUTE CUSTODIAN
AND FOR BOARDING AND INSPECTION
- 1
Case No.

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1. charges for all fees for keepers and their costs incurred in this action and for all expenses
2. for the sale of the Vessel.

3. 2. In the immediate future, the Clerk of this Court is expected to issue a
4. warrant for arrest of the Vessel, commanding Marine Lenders Services, LLC to arrest and
5. take into custody the Vessel and to detain the same in its custody until further order of
6. this Court respecting same.

7. 3. It is contemplated that Marine Lenders Services, LLC will seize the Vessel
8. forthwith. Custody by Marine Lenders Services, LLC requires that the substitute
9. custodian has access to adequate facilities and supervision for and can safely keep the
10. same in place of the United States Marshal during the pendency of suit herein and until
11. further Order of the Court. In this regard the substitute custodian will provide legal
12. liability insurance and perform the normal and customary custodial services for said
13. vessel, including attending mooring lines, bilge pumping as necessary, and providing
14. locks and security, during their custodianship at a charge of \$350.00 a month, one month
15. minimum for the Vessel. An additional fee of \$458.00 will be charged for substitute
16. custodian legal liability insurance. There will be an arrest fee not to exceed \$1600.00
17. plus expenses. If not paid directly by Wallace G. Dowden, a moorage fee will be charged
18. at the rate charged at its arrested location. The total charge for said services will be less
19. than those charged by the United States Marshal for providing such services through
20. professional keepers.

21. 4. The Vessel is believed to be currently located at the Tulalip Marina in
22. Marysville, Washington. Plaintiff is agreeable to allow Buck Fowler, managing member
23. of Marine Lender Services, LLC, act as its custodian until further order of this Court.
24.

1. 5. Mr. Fowler, by certification submitted herewith and made a part hereof,
2. averts that he can supervise the defendant Vessel and accepts, in accordance with the
3. terms of this order, possession of the defendant Vessel, its engines, machinery, and
4. appurtenances, etc., which is the subject of the action herein.

5. 6. In consideration of the appointment of Mr. Fowler as substitute custodian,
6. Plaintiff agrees to release the United States and the United State Marshal from any and all
7. liability and responsibility arising out of care and custody of the Vessel, from the time the
8. United State Marshal transfers possession of the Vessel over to said substitute custodian,
9. and Plaintiff further agrees to hold harmless and indemnify the United States and the
10. United State Marshal from any and all claims whatsoever arising out of the substitute
11. custodian's possession and safekeeping.

12. THEREFORE, IT IS ORDERED that the United States Marshal for the Western
13. District of Washington is authorized, upon seizure of the Vessel, pursuant to Warrant for
14. Arrest, to surrender the possession thereof to Mr. Fowler as substitute custodian named
15. herein, and that upon such surrender the United States Marshal shall be discharged from
16. the duties and responsibilities for the safekeeping of the Vessel and held harmless from
17. any and all claims whatsoever arising out of said custodial services.

18. IT IS FURTHER ORDERED that Mr. Fowler is hereby appointed custodian of
19. the Vessel and shall retain the Vessel in his custody for possession and safekeeping until
20. further order of the Court. All costs for such safekeeping shall be paid by Plaintiff, and
21. may, upon further order of this Court, be deemed administrative costs herein.

22. IT IS FURTHER ORDERED that the substitute custodian may permit boarding
23. and inspection of the Vessel by marine surveyors, Plaintiff, and prospective purchasers in
24. order to protect and preserve the Vessel and to determine the Vessel's condition and
25.

1. value. All costs of such boardings and inspections shall be paid by Plaintiff and may,
2. upon further order of this Court, be deemed administrative costs herein. All persons
3. entering on board the Vessel shall execute a waiver and release in the form attached
4. hereto.

5. IT IS FURTHER ORDERED that Plaintiff's attorney serve a copy of this order
6. on the owner of the Vessel.

7. It is further requested that the Clerk of this Court deliver three certified copies of
8. this order to the United States Marshal forthwith.

9.
10. DATED this 16 day of August, 2016.

11. 

12. RICARDO S. MARTINEZ
13. CHIEF UNITED STATES DISTRICT JUDGE
14.

15. Presented By:
16.

17. HOLMES WEDDLE & BARCOTT, P.C.
18.

19. s/ John E. Casperson

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